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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,090

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Toshiya Daikyo

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EXAMINER

BYRD, LATRICE CHENELL

ART UNIT

PAPER NUMBER

3782

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/595,090	Applicant(s) DAIKYO ET AL.	
	Examiner LATRICE BYRD	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 15-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 15-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/4/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 10 is objected to because of the following informalities: “potion” in line 2 should be “portion”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-4, 8, 10, 15-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 1-3, 8, and 17-18 recite the limitation "the upper triangular projections." There is insufficient antecedent basis for this limitation in the claim. Claims 1-3 refer to two different sets of triangular projections, "triangular projections disposed upward and projected right and left are brought in close contact with the lateral surfaces" and "triangular projections disposed downward and projected right and left are brought in close contact with the bottom portion." It is unclear which triangular projections are being claimed throughout the application. For the purpose of examination, the triangular projections brought in contact with the lateral surfaces will be identified as "upper triangular projections" and the triangular projections brought in contact with the bottom portion will be identified as "lower triangular projections."

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5. Claims 4, 8, 15 and 17 recite the limitation "both vertexes." There is insufficient antecedent basis for this limitation in the claim. Claims 4 and 8 are dependent from claim 1 and claim 15 and 17 dependent from claim 2. Claim 1 nor claim 2 disclose vertexes. For the purpose of examination, claims 4 and 15 will be construed as being dependent from claim 3. Claim 8 as well as claims 17 and 18 recite the limitation "a second horizontal fold." However, there is no "first horizontal fold" claimed in the previous claims from which the claims depend. It is not clear if the "first horizontal fold" of claim 4 or claim 15 is required to meet the limitation "a second horizontal fold." For the purpose of examination, "a second horizontal fold" will be construed as only requiring one horizontal fold.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 2 rejected under 35 U.S.C. 102(b) as being anticipated by Asanuma (USPN 4,550,826).

8. In re claim 2, Asanuma discloses a paper package wherein thick paper material having a waterproof thin film on its inner surface is cylindrically formed, its upper and lower edges are sealed and bent to form a top portion (6) and a bottom portion (10) opposite to each other, a front portion (2) and a back portion (2) opposite to each other,

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a pair of lateral surfaces (4), upper triangular projections (14) disposed upward and projected right and left are brought in close contact with the lateral surfaces (4), lower triangular projections (4) disposed downward and projected right and left are brought in close contact with the bottom portion (24) to form a square box shape, an insertion section (23) for inserting a straw is formed on the top portion (6), and the upper triangular projections (4) are sealed and wrapped around the lateral surfaces (4) with a film.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1, 3-11, and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asanuma (USPN 4,550,826) in view Phillips, Jr. (USPN 3,366,308).

11. In re claim 1, Asanuma discloses a paper package wherein thick paper material having a waterproof thin film on its inner surface is cylindrically formed, its upper and lower edges are sealed and bent to form a top portion (6) and a bottom portion (10) opposite to each other, a front portion (2) and a back portion (2) opposite to each other, a pair of lateral surfaces (4), upper triangular projections (14) disposed upward and projected right and left are brought in close contact with the lateral surfaces (4), lower

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triangular projections (4) disposed downward and projected right and left are brought in close contact with the bottom portion (24) to form a square box shape, and an insertion section (23) for inserting a straw is formed on the top portion (6). Asanuma fails to disclose the upper triangular projections being weakly bonded to the lateral surfaces by thermal processing. However, Phillips, Jr. teaches the use of thermal processing to bond flaps to a container body. It would have been obvious to one of ordinary skill in the art to have used thermal processing to bond the upper triangular projections to the lateral surfaces of Asanuma as taught by Phillips, Jr. in order to tightly seal the closure to prevent leakage.

12. In re claim 3, Asanuma discloses the claimed invention except inverted V-shaped folds forming triangular surfaces where vertical folds extend between vertexes of the upper and lower triangular projections. However, Phillips teaches the use of vertical fold lines (84,86) on the sides of a container that meet at the vertex of diagonal fold lines (54,56,58,60,68,70,76,78). It would have been obvious to one of ordinary skill in the art to have included fold lines along the lateral surfaces of Asanuma as taught by Phillips, Jr. in order to make the lateral surfaces capable of being easily collapsed after use.

13. In re claims 4-9 and 15-18, Asanuma discloses the claimed invention except horizontal fold lines along a front or back portion of the package. However, Phillips, Jr. teaches the use of horizontal fold lines (62) passing through lateral surfaces of a container between the vertexes of each wall with a distance from the bottom being $\frac{1}{2}$ the width of the bottom portion. It would have been obvious to one of ordinary skill in

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the art to have included horizontal fold lines in either the front or back portions of the package of Asanuma as taught by Phillips, Jr. in order to further collapse the package along the front or back portion and continue to fold the package to decrease the size after use to be stored or disposed after use.

14. In re claim 10, Asanuma disclose a paper package wherein the insertion section is disposed on a back surface portion of the top portion.

15. In re claims 11 and 19-20, Asanuma does not expressly disclose the contents of the package having a viscosity of 10 mPa*s and or more. However, Phillips, Jr. teaches a paper package used for milk or juice. It would have been obvious to of ordinary skill in the art to have chosen to use the paper package of Asanuma for containing a contents of at least 10 mPa*s in viscosity as Phillips, Jr. does as it is well-known to use paper packages having waterproof thin film on its inner surface to contain products of that nature.

16. Claims 21-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asanuma (USPN 4,550,826) and Phillips, Jr. (USPN 3,366,308) as applied to claims 1-3 above, and further in view Kawaguchi et al. (USPN 7,322,492).

17. In re claims 21-29, Asunuma discloses the claimed invention except the straw as described in claims 21-29. However, Kawaguchi et al. teaches a straw (10) removably secured to a straw insertion section (21) formed on said press-deformable package (20), wherein said press-deformable package is constituted by the paper package, and wherein said straw comprises: a cylindrical base section (12g); a stop section (SR) having a taper portion with its outer diameter gradually decreasing to the through hole

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side from the opening for drinking wherein a maximum outer diameter of the taper portion of the stop section is smaller than a sum of an outer diameter of the base portion and the thickness of a straw tube wall and greater than the outer diameter of the base portion, connected to an inner surface of the package to prevent detachment of the straw; and at least one through hole (IO) being adjacent to the stop section, wherein a total of an opening area of the through hole is equal and greater than a cross section of the base section in a diameter direction. It would have been obvious to one of ordinary skill in the art to have used a straw with the paper package of Asanuma as taught by Kawaguchi et al. to provide a stopper on the straw that will prevent the straw from falling out of the package once inserted into the straw insertion section while providing a liquid-tight seal.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LATRICE BYRD whose telephone number is (571)270-5703. The examiner can normally be reached on Mon-Thu 9:30am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LATRICE BYRD/
Examiner, Art Unit 3782

/Gary E. Elkins/
Primary Examiner, Art Unit 3782